

Executive Summary: Analysis of Lumbee Historical and Genealogical Claims

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- **Legislation Consideration:** Congress is evaluating legislation recognizing the Lumbee group from Robeson County, NC, as an Indian tribe. Recognition should be limited to groups with verifiable descent from a historic Indian tribe.
- **Historical Background and Shifting Claims**
 - The Lumbee have pursued federal recognition for many years, but Congress has repeatedly rejected their claims due to inconsistencies.
 - The group has shifted its historical narrative, sometimes claiming descent from the Cherokee, the Cheraw, and even the “Lost Colony” of Roanoke, but these claims lack sufficient documentation.
 - The 1956 Lumbee Act recognized the group's name change but withheld eligibility for federal services as Indians.
 - In 2016, the Department of the Interior determined that Lumbee could participate in the Office of Federal Acknowledgment (OFA) process.
- **Lumbee Historical and Genealogical Claims Lack Even Minimal Evidentiary Support**
 - The totality of Lumbee claims lacks properly attributed historical documentation and relies on speculative connections rather than verified facts.
 - Claimed ancestors cannot be identified as affiliated with any Indian tribe(s).
 - The claim of descent from the Cheraw tribe is inadequately supported, with little documentation.
 - Historical records do not support the Lumbee assertion that they were hiding out in the swamps of Robeson County for 100 years
 - The Lumbee have adopted various and inconsistent tribal identities, including "Cherokee Indians of Robeson County" and "Siouan Indians," reflecting an opportunistic approach rather than a deep-rooted historical identity.
- **Unprecedented Recognition Without Tribal Descent:**
 - If Congress grants recognition, the Lumbee would be the first and only group to receive federal acknowledgment without being able to identify a specific historic tribe or tribes from which they descend.
 - This would set a precedent for recognizing groups that cannot demonstrate a clear connection to a historical tribe, fundamentally altering the standards for federal recognition.
 - Extending recognition to groups with minimal evidence of Native ancestry would grant those groups legal rights to the identities, cultural resources, and sacred places of legitimate tribes.
- **Conclusion:**
 - The Lumbee's historical claims contain significant questions, gaps, and inconsistencies that make it impossible to determine their connection to any historic tribe.
 - Answering these questions requires careful evaluation beyond Congress's capabilities.
 - The OFA remains the only government entity capable of rigorously assessing the Lumbee’s petition.
 - Granting recognition without meeting the established criteria would be unprecedented and harmful to tribal sovereignty, tribal identity, and the Federal trust responsibility.

Analysis of Lumbee Historical and Genealogical Claims

The United States Congress is considering legislation that would recognize a group which calls itself the Lumbee from Robeson County, North Carolina as an Indian tribe in a government-to-government relationship.¹ While the recognition of overlooked tribal communities is a laudable endeavor, it is an important responsibility of the Federal government to ensure that only groups that consist of persons who descend from a historical Indian tribe(s) are rightfully acknowledged as tribal sovereigns. As Tribal nations have seen over the past 30-some years, various states have extended “state recognition” to groups whose members do not have verifiable Indian ancestry, cannot identify descent from historical tribes, and have only recently come into existence claiming tribal identity. These types of government decisions endanger the solemn, Constitutionally-based relations between the United States and tribal sovereign entities that preexisted the creation of the United States, as well as the inherent sovereignty of Indian Nations of undisputed origin.

While the Lumbee of Robeson County have been pursuing Federal recognition for many years, shifting historical claims, uncertain development of the Lumbee group and other political factors have caused Congress to not pass Lumbee recognition legislation. One factor of concern is that the Lumbee have asserted descent from multiple, unrelated historic tribes and a mythical “lost Colony of Roanoke.” Between 1910 and the 1930s, the Lumbee community sought

¹ S. 521 and H.R. 1101—118th Congress (2023-2024), Lumbee Fairness Act. February 16 and 17, 2023. See: [Text - S.521 - 118th Congress \(2023-2024\): Lumbee Fairness Act | Congress.gov | Library of Congress.](#)

recognition as a Cherokee tribe, a Cheraw tribe and a Siouan tribe,² although Siouan is a language family, not a single historical tribe. Congress rejected each of these bills.

In 1956, Congress passed the Lumbee Act, a unique piece of legislation that “designates the name for the individuals who were, at that time, residing in Robeson and adjoining counties.”³ As this legislation simply acknowledged that the group previously calling themselves the “Cherokee Indians of Robeson County” or the “Siouan Indians of Robeson County” were now calling themselves the “Lumbee Indians of North Carolina,” it also made clear that its passage did not acknowledge any eligibility to receive Federal services as Indians.⁴ In 1975, the U.S. District Court for Maine’s decision in *Joint Tribal Council of Passamaquoddy v. Morton* drew a more general, land-based determination of the United States’ responsibilities to unrecognized Indian communities from the 1790 Non-Intercourse Act.⁵ By 1978, the Department of the Interior established the Branch of Acknowledgement and Research (BAR), the forerunner of the present Office of Federal Acknowledgement (OFA) to allow groups of individuals who claim tribal descent to seek tribal nation status through a rigorous petitioning process.

The Lumbee Group Can Access the OFA Process

In 1987, the Lumbee River Legal Services, Inc., in cooperation with the Lumbee Tribal Enrollment Office, filed a Petition with BAR for Lumbee recognition. BAR designated the Lumbee community as Petitioner number 65. Two years later, the Department of the Interior

² Tompkins, Hilary. *Reconsideration of the Lumbee Act of 1956*. United States Department of the Interior, Solicitor, 22 December 2016. See: [m-37040.pdf \(doi.gov\)](#) Accessed October 3, 2024, p. 2, FN 11.

³ Ibid.

⁴ 70 Stat. 375, “Relating to the Lumbee Indians of North Carolina.” See: [STATUTE-70-Pg254.pdf \(govinfo.gov\)](#)

⁵ 388 F. Supp. 649 (1975). See: [JOINT TRIBAL COUN. OF PASSAMAQUODDY TRIBE v. Morton, 388 F. Supp. 649 \(D. Me. 1975\) :: Justia.](#)

Solicitor released an Opinion stating the 1956 Lumbee Act precluded Lumbee participation in the administrative recognition process.

In 2016, the Department of the Interior Solicitor issued an updated Opinion which reconsidered the effect and scope of the 1956 Lumbee Act.⁶ Concluding her 19-page opinion, Solicitor Tompkins determined that the Lumbee community can put forth Petition #65 for consideration:

Over the past four decades, the Department has vacillated in its interpretation of the Lumbee Act...I find that neither the text of the Lumbee Act nor its legislative history precludes the Lumbee Indians from petitioning for Federal acknowledgment under the Department's regulations, I conclude that they may avail themselves of the acknowledgment process in 25 C.F.R. Part 83.

This revised Opinion made clear and enshrined into law that the Lumbee of Robeson County have the same right to participate in the OFA recognition process as any other group in America.

The 1987 Lumbee Petition #65

Over 35 years ago, in the first decade of the Department of the Interior's administrative recognition process, the Lumbee community filed Petition #65 to establish that the historical record and genealogical evidence demonstrate that the Lumbee community meets the criteria necessary under the 1978 regulations. Unfortunately, the citations to source documents in the Petition are not consistent, sometimes missing altogether, and often unhelpful when trying to reconstruct the base sources for various assertions within the Petition.⁷ There are tables in the

⁶ Tompkins, Hilary. *Reconsideration of the Lumbee Act of 1956*. United States Department of the Interior, Solicitor, 22 December 2016. See: [m-37040.pdf \(doi.gov\)](#) Accessed October 3, 2024.

⁷ If there were Exhibits attached to the Petition narrative, they have not followed the Petition into the Library of Congress.

Petition which, at a minimum, need more informative titles and/or introductions, and they tend to appear without attributions or citations back to source documents.⁸

In short, the Petition does not provide even a minimal level of properly attributed historical documentation to support Lumbee's claims made in the Petition and instead relies almost exclusively on unidentified people groups, glosses over the gaps between earlier groups and the people settled in the lands around the Lumber River, and uses the speculative manufacture of history to arrive at their desired conclusion.

Issues of Descent from Historical Tribe(s)

The Introduction to the Petition makes several concerning remarks regarding Indian communities or “historically identified groups” and some over-arching issues in identifying tribal communities that contributed to the development of the Lumbee community.⁹ The Petition asserts “the data show that the present-day Lumbee population derives from diverse origins, the core of which is Cheraw.”¹⁰ This theory was not explained or specifically supported by any sources in the Petition. This Cheraw identification requires more and clearer documentation. The claim of Cheraw descent relies on a 1725 map by John Herbert which did identify a Saraw settlement on the Pee Dee River to the southwest of the historical settlements that could be Indian on Drowning Creek, but this in itself is not enough to make a connection.¹¹ In 1739, there is an account of a dispute brought to the South Carolina Council by the Welsh settlers of lands purchased from the Saraw and Peedee Indians, who were still using the lands as their usual

⁸ Given the advances in technology since the late 1980s, the Petition could greatly benefit from hyperlinking and updated citation formats.

⁹ 1987 Lumbee Petition, Vol. 1, pp. 3-4.

¹⁰ *Ibid.*, p. 4.

¹¹ 1725 00 00 Herbert, John. Map of the Carolinas. See: [New map of his majesty's flourishing province of South Carolina - Digital Library of Georgia \(usg.edu\)](#). This village on the Pee Dee was approximately 200 miles northwest of historic Robeson County Lumbee settlements. “Saraw” is an earlier spelling of Cheraw.

hunting grounds.¹² The Welsh settlers complained that a “Robert” and 14 other head men signed two land conveyances covering the lands of their settlement.¹³ Certainly, if this conveyance exists anywhere, even as a transcript with the signers’ names, this would begin to document the people living there. Such a document was not provided in the Petition. In addition, the Petition cites a 1771 news account of the capture of fugitives at “Charraw.”¹⁴ The article locates the capture “near Drowning-Creek, in the Charraw Settlement.” This is the first mention of any Cheraw living in a settlement near Drowning Creek, rather than on the Pee Dee River or in the Charraw village associated with the Catawba.¹⁵ If this 1771 settlement is the “Cheraw core” asserted by the Petition as the primary historical tribe, why is this argument not expanded to further document this claim of descent?

There also appears to have been confusion between the presence of the Cheraw and Pee Dee Indians and a separate “mix’d crew” of families in the Drowning Creek area during the 18th century. In 1739, Welsh settlers on the Pee Dee River complained to the South Carolina Council in March that Peedee and Cheraw Indians were “running amongst their settlements under the pretense of hunting.”¹⁶ In July, 1739, the Welsh settlers made a second complaint to the Council, this time of “outlaws and fugitives, most of whom are mullato (sic) or of a mixed blood, living adjacent to them are a pest and a nuisance.”¹⁷ Contrary to the Petition’s assertions, it is not

¹² Lumbee Petition, Vol. 1, p. 15. The location is still well to the northwest of the Drowning Creek area.

¹³ Ibid. The names of the reserved old fields owners, Laroche and Thomas Grooms, are listed.

¹⁴ South-Carolina Gazette, *Winsler Driggers*. Charleston, South Carolina. October 3, 1771. See: [Oct 03, 1771, page 2 - The South-Carolina Gazette at Newspapers.com](#).

¹⁵ See: [Feb 06, 2011, page A1 - The Herald at Newspapers.com](#). The villages further west in South Carolina are the historically better known. The Catawba town site of Charraw was excavated along with five other townsites in western South Carolina during 2010-2011. The town of Cheraw is located west-northwest of Robeson County on the Pee Dee River. The mention of another Cheraw settlement in the Drowning Creek area is consistent with indications the Cheraw may have split up before or after some families going to Catawba. However, if the 1771 settlement is on Drowning Creek, additional research to more firmly document this is necessary for evidence of a previous historic tribe.

¹⁶ Lumbee Petition, Vol. III, p. 3.

¹⁷ Ibid., pp. 3-4.

logical to draw the conclusion that these complaints refer to the same group. The March complaint clearly states it was Peedee and Cheraw Indians who the Welsh were having difficulties with, and that these Indians were “running through” their settlements while on hunting trips. The July complaint just four months later, however, refers to a much more ambiguous group, and the quote in the Petition does not make clear the specific complaint or composition of this group, except that they were seen as “outlaws and fugitives.”¹⁸ The lack of specific identification of the second group, so soon after the first complaint specifically of the Peedee and Cheraw, does not lead to the conclusion that the Welsh were complaining about the same group. The complaint about the Peedee and Cheraw never described them as “outlaws and fugitives.” Indeed, as the former occupants of the Welsh settler lands, the Cheraw and Peedee may have considered the lands still open to traditional hunting. The specific complaints about the “outlaws and fugitives” are ambiguous (as was their identity), and were limited to the Welsh settlers’ statement that “living adjacent to them are a pest and a nuisance.” In 1754, a second group, never identified as Indians, appeared to be similar in description to the 1739 group, although this “mix’d crew” was located well south of the Indians noted in 1739 “on Drowning Creek on the head of the Little Pedee.”¹⁹ Dr. Robert K. Thomas, in his “A Report on Research of Lumbee Origins,” came to the same conclusion, finding that the group referred to were not Indian or mixed-blood Indians:

I think his (Wesley White) citation of 1754 does not refer to Indians or to even people of mixed racial background. In 1754, there were, in fact, Scots settlers living on Drowning Creek...The were in 1750 settled on Drowning Creek which was the border between Anson and Bladen Counties, now the border between Hoke and Scotland Counties. There are family traditions that many Scots in these early days were squatters on the land...I think that if they had been mixed

¹⁸ Ibid.

¹⁹ Ibid., p. 4.

racially they would have been referred to simply as Mulattoes...I would think “mixed crew” would mean perhaps mixed in language spoken, in nationality, in geographical origins...It is very possible that a group of Scots on Drowning Creek, some speaking English, some speaking Gaelic, perhaps of varied educational backgrounds, might seem like a “mixed crew” to a standard Englishman from further south on the North Carolina coast.²⁰

Additionally, the 1754 “mix’d crew” was said to have been comprised of 50 families.

This was larger than the first enumeration of the individuals claimed as Indian ancestors in Petition #65 on the 1790 Federal census. In 1790, the number of Robeson households of “All other Free” people was 47, numbering 245 individuals. An additional 32 “All other Free” people were present in white households.²¹ If the “mix’d crew” had been a developing tribal community in 1754, the expected increase over the next 3+ decades would be much greater. The assertion in the Petition that correlates to Section 83.7(A) of the 1978 regulations that “the first recorded contact with the Lumbee was in 1753 when 50 families were recorded as living as (sic) Drowning Creek” is inaccurate and unsupportable without further investigation of the composition of that community.²² The use of the 1739 “outlaws and fugitives” and the 1754 “mix’d crew” as antecedents for the Lumbee, aside from lack of Indian identification, does not make sense from multiple historical aspects.

The Petition repeats the tribal identity claims attached to the Lumbee by North Carolina and then noted by the United States in the 1956 Lumbee Act, and the frequency and ease with which those labels were changed at the request or with the approval of the Lumbee. There is great concern among the tribes whose identities are not in dispute regarding the incorrect or

²⁰ Robert K. Thomas, *A Report on Research of Lumbee Origins*. c. 1977, pp. 11-12.

²¹ U.S. Federal Census, 1790, North Carolina, Robeson, Not Stated. See: [Ancestry.com - 1790 United States Federal Census](https://www.ancestry.com).

²² Lumbee Petition, Vol. II, p. 4. This community was also located well south of Robeson County, at the confluence of the Little Pee Dee and Drowning Creek.

fabricated tribal names the Lumbee have allowed to be attached to their group. Affording recognition to a group of people that does not know and cannot name, let alone demonstrate its tribal origins and descent from those tribes, would be the first of its kind in United States history.

Congressional testimony from the Department of the Interior officials also supports the notion that Petition #65 does not demonstrate descent from a historic tribe or tribes. As noted in his 1991 testimony before the Joint Committee, then-Director of the Office of Tribal Services Ronal Eden stated that, “the Lumbee have not documented their descent from a historic tribe...The documents presented in the petition do not support this (Cheraw) theory...”²³ The Cheraw descent asserted in the 1987 Petition, in order to be substantiated as the previous historic tribe, requires more evidence and documented connections than provided in the Petition. Even Dr. Jack Campisi, consulting anthropologist to the Lumbee and an author of the 1987 Lumbee Petition, testified under oath that the Lumbee have no remnant of an Indigenous language, and that any identifiable tribal traditions “were gone before the end of the 18th century.”²⁴ The lack of documenting connections to a previous historic Indian tribe, combined with the attempted appropriations of another Indian tribe’s identity, specifically Cherokee, within the 1987 Petition exhibit fundamental failings in laying a foundation for recognition as an Indian tribe.

Further Issues of Indian Descent

Since the late 19th century, various and ill-considered claims of identification with historical tribes or even entire linguistic families have been accepted and used by the Lumbee

²³ Eden, Ronal. *Testimony of Ronal Eden, Director of the Office of Tribal Services, The Department of the Interior before the Joint Hearing of the Select Committee on Indian Affairs, United States Senate, and the Interior on Insular Affairs Committee, United States House of Representatives, Hearing on S. 1036 and H.R. 1426*, August 1, 1991, pp. 3-5.

²⁴ H.R. Rep. No. 103-290, 103rd Cong., 1st Sess., pp. 186-187 (1993).

group. Each of these theories share a common fallacy. Rather than studying history to *determine* whether the group in question are in fact Natives, each theory fiats the conclusion that Lumbee are a tribe and seeks to contort history to fit that theory. In 1885, Hamilton McMillan, a Robeson County politician and local historian, proposed his theory that the Lumbee group was composed of descendants of the 1587 English “Lost Colony” from Roanoke Island and “Croatan” Indians from the Outer Banks of North Carolina. Most of his informants are not named, and his methodology and ability to record any oral traditions he heard faithfully and without his own personal lens are questionable. Further, he posits that surnames found on the list of 1587 colonists were present “among the Indians residing in Robeson County and in other counties of North Carolina.”²⁵ The 41 surnames he identifies as “present among the Indians” are not Robeson County surnames from 1790, with the exception of Brooks. Brooks is a common English surname which wasn’t unique to the Roanoke Island colonists. Sampson was listed as a surname at Roanoke and shows up during the 19th century in Robeson County, but like the other surnames, was not traced by McMillan genealogically. A link, especially a claim of *lineal descent*, between a historic list of individuals and a later group, must be traced definitively and verifiably through the generations to be considered as meeting the definition of lineal descent. Vague and uncorroborated tales of having come from somewhere else without clear attribution of the community or families moving does not provide the evidence necessary to identify a group as a historical tribe.

²⁵McMillan, Hamilton. *Sir Walter Raleigh's Lost Colony*. Wilson, North Carolina, *Advance Presses*, 1888. pp. 22-24. See: [Sir Walter Raleigh's Lost Colony - Google Books](#).

McMillan admits that the region of the Outer Banks and northeastern North Carolina was little known during the period of 1587 to 1690.²⁶ Without further evidence, he then asserts the Croatans “removed farther into the interior where portions of that tribe had previously located.”²⁷ These ideas and conclusions are based on speculation drawn from echoes of the author’s own suppositions which may have been overlaid or inserted into what he wanted to hear from his informants. This is the work of an amateur historian who, as sincere as he may have been, never tested his supposition or conclusions to ensure there weren’t more solid, less fanciful traditions on which to base his theories.

In 1891, another North Carolinian, Steven Weeks, published a more formal version of McMillan’s theory. Although Weeks used good citations when going over the known history of English exploration, the circumstances of the Roanoke Island colony, and early historical maps showing various supposed locations of the Croatoan or Dasamonguepeuk sites, the citations end when he theorized about what may have happened to the colonists after the Roanoke Island settlement was found to be abandoned. Weeks supposed the Hatteras Indians, who he found were likely the tribe referred to earlier as “Croatoans,”²⁸ “may have come into communication with kindred tribes on the Chowan and Roanoke rivers, to which they seem to have gone at a later period.”²⁹ Weeks then indicates that his supposition was “one end of the chain of evidence

²⁶ Ibid., p. 25.

²⁷ Ibid.

²⁸ Ibid. The meaning and spellings of “Croatoan” and “Croatan” were used flexibly from 1587 through the 19th century. “Croatoan,” although used in the 17th century as a name for the people who lived at Croatoan village, was rectified during the 18th century, when the people of that village told colonists they were the Hatteras. “Croatan” was another attribution to the people of Croatoan village.

²⁹ Weeks, Stephen B. *The Lost Colony of Roanoke: Its Fate and Survival*. New York, New York, Knickerbocker Press, 1891, p. 25. See: [00013444.pdf \(ecu.edu\)](#)

in this history of survivals”³⁰ without evidence, documents indicating a chain of evidence, or a supportable history of survivals.

He then continued his “chain of evidence” theme:

The other end of the chain is to be found in a tribe of Indians now living in Robeson county (sic) and the adjacent sections of North Carolina, and recognized officially by the State in 1885 as Croatan Indians. These Indians are believed to be the lineal descendants of the colonists left by John White on Roanoke Island in 1587. The migrations of the Croatan tribe from former homes farther to the east can be traced by their traditions...³¹

The fallacy presented here is the lacking evidence of the amalgamation of the Roanoke Island colonists and the Croatoan or Hatteras Indians following the abandonment of the colony, as well as the lack of correlating sources of a migration from the Outer Banks, through northeastern North Carolina, and then heading southwest into the Robeson County environs. Attempting to bridge a 300-year silence between a historical tribe and a group several hundred miles away without clear knowledge of that specific tribe or indigenous language, clans, or cultural traditions to connect with the earlier tribe does not demonstrate descent. Weeks also described the Lumbee group as “lineal descendants” from the Roanoke Island colonists and the Croatan/Hatteras, which was then and is now a claim which cannot be made absent an actual genealogy showing such descent.

The Lumbee group itself did not appear to be heavily invested in this origin theory or in affiliating with the historic Croatan. By 1911, the group was intent on changing its name again due to whites of Robeson County shortening the name “Croatan” to “Cro” to make a slur from it.³² One would expect, if the Roanoke Island-Croatan origin theory was viewed as a valid

³⁰ Ibid.

³¹ Ibid.

³² Lowery, Malinda M. *Lumbee Indians in the Jim Crow South*. The University of North Carolina Press, 2010. p. 87.

origin, the Lumbee group would be more likely to ignore the slur. The North Carolina General Assembly passed an Act changing the name of the Lumbee group from the “Croatan Indians of Robeson County” to the “Indians of Robeson County.”³³ A mere two years later in 1913 and because the Lumbee group “wanted a more clearly identifiable name for themselves,” the legislature approved re-labeling the group the “Cherokee Indians of Robeson County.”³⁴ This designation may have stemmed from Angus McLean, a Robeson County banker who would later become the governor of North Carolina, declaring that “several of the Cherokees” “were located in Robeson County” after hearing “several stories about the Tuscarora War from local Indians.”³⁵ This story has not been substantiated, and even if several men had stayed in Robeson County, that would not have made the entire Lumbee group a “Cherokee” society. Thomas summed up the problems with this theory:

If one looks at Cherokee tradition, there is no evidence whatsoever that Cherokees ever got as far east as Robeson County, except perhaps on war parties, and have no traditions of having relatives in Robeson County whatsoever. In fact, Cherokees are very tied to a mountain environment...I cannot imagine Cherokees migrating to an area like Robeson County...Clear creek water, which is very important in the Cherokee religion, is absent in Robeson County. Cherokees today have no notion of ever having lived east of the Blue Ridge Mountains.³⁶

With the new name, the Lumbee group contacted Congress with the object of the recognition of the new name and possibly funds for education. The U.S. Senate passed Resolution 410 on June 30, 1914, directing the Secretary of the Interior “to cause an investigation to be made of the condition and tribal rights of the Indians of Robeson and

³³ Dial, Adolph, and David K. Eliades. *The Only Land I Know: The History of the Lumbee Indians*. 1st ed., Syracuse University Press, 1996. p. 185.

³⁴ *Ibid.*, p. 94.

³⁵ Lowery, Malinda M. *The Lumbee Indians: An American Struggle*. The University of North Carolina Press, 2018. p. 110.

³⁶ *A Report on Lumbee Origins*, p. 7.

adjoining counties in North Carolina...and report to Congress what tribal rights, if any, they have with any band or tribe.”³⁷ Special Indian Agent O.M. McPherson submitted this report, noting that the Indian Office had no knowledge of the group until late 1888, when a petition was received from the Lumbee group requesting “such aid as you may see fit to extend to us” under the name of the Croatan Indians of Robeson County. McPherson summed up the situation to Congress as follows:

Much doubt and uncertainty has existed as to the source of the Indian blood of this people and as to whether their ancestors comprised a part of White’s lost colony...Some of these Indians hold to a tradition that they are of Cherokee origin and affect to believe that the action of the General Assembly of North Carolina in designating them as “Cherokee Indians of Robeson County” in some way confirms this tradition. I find that the question of the source of their Indian blood, and whether their ancestors were part of Gov. White’s lost colony are so inextricably bound together that it will be necessary to treat both subjects under the same heading.³⁸

As to the “lost colony” theory, McPherson wrote he regarded it “as of little value.” He then cited James Mooney writing in the Handbook of Indians:

The theory of descent from the lost colony may be regarded as baseless, but the name itself serves as a convenient label for a people who combine in themselves the blood of the wasted native tribes, the early colonists or forest rovers...³⁹

McPherson also referenced the comments of Samuel A’Court Ashe, a historian, regarding the “lost colony” theory. Mr. Ashe was likewise unconvinced by the theory and the “surname evidence”:

³⁷ U.S. Senate, Senate Document No. 677, “*Indians of North Carolina, Letter from the Secretary of the Interior Transmitting, in Response to a Senate Resolution of June 30, 1914, A Report on the condition and Tribal Rights of the Indians of Robeson and Adjoining Counties of North Carolina.*” 63rd Cong. 3rd Sess. (1915), p. 5. See: [O. M. \(Orlando M.\) McPherson. Indians of North Carolina: Letter from the Secretary of the Interior, Transmitting, in Response to a Senate Resolution of June 30, 1914, a Report on the Condition and Tribal Rights of the Indians of Robeson and Adjoining Counties of North Carolina \(unc.edu\)](#)

³⁸ *Ibid.*, p. 9.

³⁹ *Ibid.*, p. 10.

Because names born by some of the colonists have been found among a mixed race in Robeson County, now called “Croatan, an inference has been drawn that there was some connection between them. It is highly improbable that English names would have been preserved among a tribe of [Indians] beyond the second generation, there being no communication except with other [Indians]. If English names had existed among the Hatteras Indians in Lawson’s time [1714], he probably would have mentioned it...⁴⁰

McPherson concluded that if the “lost colony” theory had basis, “I do not find that the Hatteras Indians or the so-called Croatan Indians ever had any treaty relations with the United States, or that they have any tribal rights with any tribe or tribe of Indians, neither do I find that they have received lands or that there are any moneys due them.”⁴¹

As to the Lumbee group’s claim of Cherokee origin, McPherson wrote:

The history and traditions of the Cherokee Indians of North Carolina, in my judgment, do not confirm the claim of the Robeson County Indians to Cherokee origin. The Cherokees were the mountaineers of the South, originally holding the entire Appalachian region from the headwaters of the Kanawha on the north to middle Georgia on the south...As far as I can learn, there is no tradition that they ever occupied the coast country in North Carolina or elsewhere.⁴²

Recognition by Congress under the “Cherokee Indians of Robeson County” failed in 1915, 1924, and 1932. The lack of a treaty relationship and the continued lack of clear and demonstrable tribal descent meant neither the Office of Indian Affairs nor Congress was persuaded to extend either recognition or educational services to the Lumbee group.

During the 1930s, another name for the Lumbee group emerged following the failure of 1932 recognition legislation. While the “Cherokee Business Committee” organization remained, a new organization, the “General Council of Siouan Indians” or “Siouan Council” emerged as

⁴⁰ Ibid.

⁴¹ Ibid., p. 17.

⁴² Ibid., p. 18.

frustrations with the lack of recognition under the “Cherokee” label arose. This political split meant the Office of Indian Affairs would not consider recommending funding or recognition. This new label of “Siouan,” while not appropriating another tribe’s name, does not refer to any specific tribes. “Siouan” is a linguistics term describing language families, not a tribal community.

During these multiple name changes, the Lumbee group seemed to have accepted the influential outsider theories of the day, rather than knowing the previous historical tribe they descend from and telling outsiders with whom they identify. As Malinda M. Lowery wrote in 2010, “Robeson County Indians displayed a willingness to work with whatever name the state and federal governments accepted, regardless of how foreign it was to their own approach to identity.”⁴³

Historical Records Do Not Support Claims of “Hiding Out”

In the narrative for Section 83.7(A) of the Federal acknowledgment regulations, Petitioner stated (after the erroneous assertion of the “mix’d crew”) that for “the next 100 years the Lumbee remained relatively isolated in the swamps of Robeson County.”⁴⁴ “Relatively isolated” here seems a conveniently loose term. The Lumbee individuals (although not yet identified as Lumbee, as the term did not come into existence until the 1950s) were apparently known well enough that they were located and enumerated on all U.S. Censuses from 1790 forward. While the self-sufficiency of the enclaves within the swamps may have allowed families to have little interaction with outsiders, there were commercial products even in the early 19th century which most rural Americans, including the individuals from this community,

⁴³ Lowery (2010), p. 106.

⁴⁴ Lumbee Petition, Vol. II, p. 4.

usually purchased ‘in town,’ such as cloth, flour, sugar, plows, harnesses, etc. The claim of exclusive enclaves of individuals claiming Lumbee in the swamps of Robeson County has not been substantiated. It is clear that, by the mid-19th century, white farms were beginning to locate closer to these settlements, and paying taxes on land under threat of losing acreage was an issue throughout the 19th century.⁴⁵ As was the case in many rural areas of that time, there may have been isolation in interacting with the larger Robeson County population, but Federal and state authorities certainly knew of the existence of the enclaves. After approximately 1831, men from these enclaves were required to obtain gun permits, along with other “free people of color.”⁴⁶ There was not a separate process for these permits between ethnic variations of “free people of color,” and as it was a yearly permit, it was an onerous burden for the men who needed firearms as part of their families’ survival during this period. While some individuals may have preferred isolation to being known in the wider Robeson County society, this was never an option where the County government was concerned.

Unsupported Claims that Ancestors and Communities Identified as “Indian”

Despite Lumbee claims that the community may have identified itself as “Indian,” the Petition does not attempt to clearly demonstrate a previous autonomous Indian tribe as the antecedent for the Lumbee. One of the issues in the ability to do this is the lack of data connecting early ancestors with the known late-18th century community. While several ancestors are mentioned as having served in the Revolutionary War as well as the War of 1812, the citations and lacking genealogical evidence have not been specific enough to identify Lumbee

⁴⁵ For example: The Raleigh Register, *Sheriff’s Sale*. Raleigh, North Carolina. November 7, 1843, p. 1. See: [Nov 07, 1843, page 1 - The Raleigh Register at Newspapers.com](#). Several Lumbee ancestors are listed, including several Locklears, Oxendine, Revels, Hunt, and Bullard.

⁴⁶ Lumbee Petition, Vol. II, p. 59.

ancestors.⁴⁷ While pre-1800 genealogical research may have been quite a difficult undertaking during the 1980s, present-day databases, abstracts of various colonial and early United States land documents, court proceedings, and especially electronic genealogy programs should allow more documentation and answer foundational questions about what, if any connection with historic tribe(s) existing among the Lumbee past.

Conclusion

The Office of Federal Acknowledgement within the Department of the Interior issued updated regulations in 2015 for the recognition of Indian tribes. This administrative process currently uses seven criteria to evaluate all petitioning groups. The regulations do explicitly require a petitioning entity to identify a previous historic Indian tribe as the recognition of a sovereign entity must originate from a previous Indian tribe with political authority over its members as well as the ability to deal with outside entities as a sovereign unit. To recognize a petitioner as a tribe without meeting these seven criteria ensures dramatic consequences for Indian policy and federally recognized tribes.

The issue of Lumbee recognition is not only an issue for the Lumbee group itself. Allowing Federal recognition for a group without clear antecedents of previous historical tribe(s) would dramatically redefine the standards for receiving Federal recognition, almost to the point of being meaningless. Such low standards would pave the way for groups with little to no evidence of Native ancestry to claim the cultures and identifies of legitimate tribes and assume legal rights over their sacred places and ancestral remains under the Native American Graves

⁴⁷ For instance, on a Revolutionary War Land Warrant list, there were three listings of James Lowry, each approved for 100 acres. There appear to be additional men with the same names as those listed in the Petition, who served from North Carolina. Additional genealogical research and citations are needed to clearly identify these men.

Protection and Repatriation Act (NAGPRA). Imbuing such groups with the legal authorities to act as sovereigns would have significant consequences for communities across America. It would enable those voices in America today who call for another era of Termination to paint such a decision, absent clear descent from historic tribe(s), as an illegal tier of benefits to racial groups. The issue of Lumbee recognition must be considered on the basis of verifiable historical facts in a process that remains unmoved by emotions, historical grievances, or purely political motives.

The historical and genealogical research required to properly evaluate and verify the Lumbee claims clearly exceeds the capabilities of Congress. It would be extremely reckless for Congress to overlook the extreme historical gaps, shifting claims, and assumed history that underpin the Lumbee's claims. Thus, the OFA is the only entity capable of examining Lumbee's request for Federal recognition.